BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

In the matter of	)	
	)	Docket Nos. OST-97-2881
COMPUTER RESERVATIONS	)	OST-97-3014
SYSTEM (CRS) REGULATIONS	)	OST-98-4775
	)	OST-99-5888
Notice of Proposed Rulemaking	)	

RESPONSE OF UNITED AIR LINES, INC.

Communications with respect to this document should be sent to:

MICHAEL G. WHITAKER
Vice President International
and Regulatory Affairs

STEPHEN P. SAWYER
Assistant General Counsel

JONATHAN MOSS
Managing Director-International
and Regulatory Affairs

UNITED AIR LINES, INC.
P.O. Box 66100, WHQIZ
Chicago, Illinois 60666

MARK ANDERSON
Vice President-Government Affairs

UNITED AIR LINES, INC.
1025 Connecticut Avenue, N.W., Suite 1210
Washington, D.C. 20036

BRUCE H. RABINOVITZ
NEIL J. KING
DAVID HEFFERNAN
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6960 (phone)
(202) 772-6960 (fax)
bruce.rabinovitz@wilmer.com (e-mail)

Counsel for
UNITED AIR LINES, INC.

DATED: January 13, 2003

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DATED: January 13, 2003

RESPONSE OF UNITED AIR LINES, INC.

United Air Lines, Inc. ("United") submits the following Response to:

(1) The Petition For Fact Hearing submitted by Sabre, Inc. ("Sabre") on December 23, 2002 in the above-referenced dockets ("Sabre Petition"), and

(2) The Response of the Air Carrier Association of America ("ACAA") dated December 20, 2002 to the notice[1/] extending the comment period for the Notice of Proposed Rulemaking ("NPRM")[2/] in the above-referenced dockets.

Although the Sabre and ACAA filings address different issues, both involve requests that the Department further revise the procedures it established in the NPRM. For the reasons discussed below, United urges the Department to deny Sabre's and ACAA's requests, adhere to its established procedural schedule, and finalize the CRS rulemaking as soon as possible.[3/]

[1/] 67 Fed. Reg. 72869 (December 9, 2002).

[2/] Computer Reservations System (CRS) Regulations; Statements of General Policy; Notice of Proposed Rulemaking, 67 Fed. Reg. 69366 (November 15, 2002).

[3/] To the extent the Department may deem it necessary, United requests leave to file this Response.

I. The Sabre Petition

On November 22, 2002, Sabre, along with two of the three other CRS vendors, Galileo and Amadeus, and a group of travel agent interests, filed a petition requesting that the Department extend the deadlines established in the NPRM for the submission of written comments as well as the March 31, 2003 sunset date for the CRS rules. Sabre and its co-petitioners argued that interested parties needed more time to prepare comments on the "many complex issues" addressed in the NPRM. United opposed that request, arguing that no extension was necessary because, although the NPRM is voluminous, the issues it addresses have been discussed and debated during the five-year period since the Department initiated this proceeding. In United's view, the extension request was essentially a delaying tactic being employed by CRS vendors who have a common interest in extending the life of the outmoded CRS rules for as long as possible because the current rules effectively insulate them from market forces. On December 9, 2002, the Department issued a notice partially granting the petition. Specifically, the Department extended the comment and reply deadlines by sixty and ninety days—to March 16, 2003 and May 15, 2003, respectively—and pledged to consider extending the sunset date early in 2003.

In its latest effort to achieve delay, Sabre asks the Department to hold a "Fact Hearing" on the NPRM—with the hearing to feature presentations by, and cross-examination of, designated witnesses representing the Department and those individuals/entities that have submitted written comments. Such a hearing, Sabre contends, "is necessary to ensure that any final rule is in fact supported by substantial

(*i.e.*, reliable and relevant) evidence." Sabre Petition at 3. In this regard, Sabre notes that much of the data and findings on which the NPRM rests are stale and out of date. Moreover, Sabre states, the hearing should include an administrative mechanism allowing affected persons to seek timely correction of information maintained and disseminated by the Department, pursuant to the Data Quality Act ("DQA"), Pub. L. 106-554, § 515(b)(2)(A), 114 Stat. 2763A-154 (2001). Finally, Sabre argues that the public rulemaking record should be supplemented to include "all studies and reports considered by the Department, or relevant and available to the Department (as referenced in 67 Fed. Reg. at 69367)." Sabre Petition at 5.

United agrees that relevant reports and studies considered by the Department should be included in the public record of this proceeding. Moreover, in accordance with the Data Quality Act and implementing regulations, a mechanism must be provided for affected persons to seek and obtain the timely correction of information maintained and disseminated by the Department, including information relied on as a basis for rulemaking.

But there is no need to hold an oral "Fact Hearing" in order to ensure that relevant reports and studies are made available in the public record. The Department can simply place the documents in the docket. Nor is there a need for an oral "Fact Hearing" in order to develop a rule based on updated information. Agencies promulgate rules in accordance with the informal rulemaking provisions of the Administrative Procedure Act ("APA") all the time on the basis of relevant and current information—without holding an oral "Fact Hearing" or providing an opportunity for cross examination. If the

Department does not possess current information justifying the continuation of the CRS rules, as United believes is the case, it should simply allow the rules to "sunset" on March 31, 2003, as scheduled. But there is no reason to hold an oral evidentiary hearing in order to update the information. Finally, contrary to Sabre's implication, an oral "Fact Hearing" certainly is not needed in order for the Department to comply with DQA requirements. The Department already has Guidelines that provide a mechanism for parties seeking the correction of information maintained or disseminated by the agency.[4/] A "Fact Hearing" would not add much of value in this regard. To the contrary, an oral hearing is likely to be an extremely cumbersome way to register a request for the correction of information.

Sabre's half-hearted suggestion that an oral "Fact Hearing" with opportunity for cross examination may be required as a matter of constitutional or administrative law is frivolous and belied by the very authority on which Sabre relies. There is no serious question that the Department has properly determined to revise its CRS regulations by means of an informal rulemaking conducted in accordance with section 4 of the APA. 5 U.S.C. § 553. The CRS regulation, after all, is a rule, and the subject of the regulation is an entirely appropriate matter for informal rulemaking, a point that Sabre does not dispute. As the Supreme Court said of the Atomic Energy Commission actions involved in the *Vermont Yankee* case, the actions the Department is considering here "involve

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[4/] Where the information for which a correction is sought is contained in an NPRM, the Guidelines contemplate that the request for correction should be included with substantive comments on the proposed rule. *See* Department of Transportation's Information Dissemination Quality Guidelines, section VIII(h) & preamble at 5-6.

rulemaking procedures in their most pristine sense."[5/] And for informal rulemakings such as this, section 4 of the APA establishes "the maximum procedural requirements which Congress was willing to have the courts impose upon agencies in conducting rulemaking procedures. Agencies are free to grant additional procedural rights in the exercise of their discretion, but reviewing courts are generally not free to impose them if the agencies have not chosen to grant them."[6/] Indeed, even in the absence of the APA, the choice of procedures to employ in formulating policy has long been recognized as falling within the agency's discretion, absent specific statutory directive.[7/] Whether the resulting record provides adequate support for the agency's factual determinations—so that the rule will not be found to be arbitrary and capricious—is a separate question that must be answered whether or not the agency chooses to employ an oral evidentiary hearing to create the record.

Oddly, Sabre relies most heavily on *United Air Lines, Inc. v. CAB*, 766 F.2d 1107 (7th Cir. 1985), to support its contention that a "Fact Hearing" with cross examination is constitutionally required in revising the CRS regulations. In fact, *United Air Lines* demonstrates just the opposite. It recognizes that, in light of the Supreme Court's *Vermont Yankee*, *Allegheny-Ludlum*, and *Florida East Coast Ry.* decisions, "[a]n

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[5/] *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 524 n.1 (1978).

[6/] *Id.* at 524 (footnote omitted) (*citing United States v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742 (1972), and *United States v. Florida East Coast Ry. Co.*, 410 U.S. 224 (1973)).

[7/] *See Vermont Yankee*, 435 U.S. at 524-25, 543 (*citing FCC v. Schreiber*, 381 U.S. 279, 290 (1965); *FCC v. Pottsville Broadcasting Co.*, 309 U.S. 134, 138 (1940)).

evidentiary hearing is not required" in informal rulemaking, such as the CRS proceeding.[8/] Moreover, *United Air Lines* confirms that there is no constitutional requirement for an evidentiary hearing or adjudicative proceeding to resolve disputes about the kinds of issues (involving potential deceptive practices and antitrust concerns) that Sabre contends must be resolved in the CRS rulemaking.[9/] To the contrary, as in the *United Air Lines* case, which also involved the CRS rules, the "findings of fact" in this case will be "used in the formulation of a basically legislative-type judgment, for prospective application only."[10/] In sum, Sabre's reliance on *United Air Lines* demonstrates the utter lack of merit in its position.[11/]

The Department's rules do, of course, afford the Secretary discretion to utilize procedures in addition to written comments,[12/] but in no way do they mandate an evidentiary hearing. And the types of issues Sabre says must be resolved here can be considered quite adequately using normal APA section 4 procedures. In fact, as the court

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[8/] *See United Air Lines*, 766 F.2d at 1116.

[9/] *See id.* at 1113 (deceptive practice issues); *id.* at 1119 (noting that there is "overwhelming [Supreme Court authority] against forcing an administrative agency to hold an evidentiary hearing to resolve disputed questions of antitrust fact. . . .").

[10/] *See id.* at 1119.

[11/] Sabre also relies on *NRDC v. Herrington*, 768 F.2d 1355 (D.C. Cir. 1985). *See* Sabre Petition at 15, 19. But *Herrington* clearly is inapposite, as it involved a statute that explicitly provided an opportunity to question Department of Energy employees "who have made written or oral presentations with respect to disputed issues of material fact." *See* 42 U.S.C. § 6306(a). No such statutory provision applies here.

[12/] 49 C.F.R. § 5.29.

noted in *United Air Lines*, "cross-examination is perhaps not a terribly useful tool for extracting the truth about what are at bottom complex economic phenomena."[13/]

When all is said and done, the only thing a "Fact Hearing" of the type requested by Sabre would accomplish is delay—and that is the last thing needed in the case of a rulemaking whose conclusion is long overdue.[14/] While further protracting this proceeding may serve the interests of Sabre and the other CRS vendors (who are insulated from market forces under the current rule), additional delay in revising—or simply terminating—a regulation that is badly out of date surely would not serve the public interest.

The Department and Secretary Mineta himself have recognized this point. Thus, the NPRM commits the Department to moving forward with this proceeding based on the current record, in anticipation that the record will be enhanced by the inclusion of new information as it becomes available, including the submission of additional evidence and argument by commenters. In fact, just before the Department issued the NPRM,

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[13/] 766 F.2d at 1121. As the Department is well aware, the so-called "public hearings" that Sabre says the Department has used in connection with significant rulemakings (*see* Sabre Petition at 10) bear no relation to the "Fact Hearing" with cross examination that Sabre seeks here. They were "public meetings" with no testimony by Department officials (other than explaining how its new centralized, computerized docket system would work) and no cross examination.

[14/] If the Department were to grant Sabre's petition, it is inconceivable that the Department could select a qualified presiding officer, develop procedures for a fact hearing, conduct a process for selecting parties to participate in the hearing (which presumably would involve parties being invited to submit summarized, if not detailed, written comments in advance), and hold the hearing within a timeframe that would enable parties to file written comments based on the rulemaking record (as expanded to reflect the fact hearing) in accordance with the recently established timetable.

Secretary Mineta rejected a written request from Congressman Oberstar to postpone its issuance until the Department had an opportunity to consider potentially relevant (but at that time not yet published) reports by the National Commission to Ensure Consumer Information and Choice in the Airline Industry and by the Department's Inspector General. In Secretary Mineta's words: "I have personally committed to move forward with a review of the existing rules, and have made the completion of this rulemaking a departmental priority."[15/] At the same time, he made clear that the Department would take into account those reports' findings and recommendations "before making any final decisions regarding the CRS rules."[16/] If the Department were to grant Sabre's petition, it would completely undermine the Department's stated determination to finalize this proceeding promptly.

United believes this painfully protracted proceeding should be completed promptly. It has dragged on far too long, leaving in place rules that bear little relation to current reality and that only serve to shield the CRS vendors from competition. Given the decline in airline ownership of CRS systems and the new competitive opportunities presented by the Internet, the Department should seek to promote competition by eliminating the rules altogether, allowing them to lapse on March 31, 2003, as currently

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15/ *Letter from DOT Secretary Norman Y. Mineta to the Hon. James L. Oberstar dated November 5, 2002*, at 1 (placed in Docket OST-97-2881 on November 6, 2002).

16/ *Id.*

scheduled. Such an approach would require no action on the Department's part[17/] and would not jeopardize competition or consumers—because it would not affect the Department's ability to initiate *ad hoc* enforcement action under its section 411 authority in response to credible evidence of unfair and deceptive competitive practices or unfair methods of competition by air carriers and ticket agents.

In sum, Sabre's petition is nothing more than an elaborate delaying tactic. It should be rejected, and the Department should adhere to the established procedural schedule for this rulemaking. If the Department cannot complete this proceeding promptly, it should allow the current CRS rules to lapse as scheduled on March 31, 2003.

II. The ACAA Response

ACAA has filed an unauthorized "response" in which it restates its request (by its own admission, for the fifth time[18/]) that the Department either take immediate action to amend section 255.10(a) of the CRS rules without waiting to address this issue as part of

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[17/] *See* 14 C.F.R. § 255.12 ("[t]he rules in this part terminate on March 31, 2003"). Sabre argues that the Department must provide "additional factual support" for any reversal of policy. Sabre Petition at 16 ("[a] policy reversal that changes an established regulation must satisfy a stricter standard on judicial review"). The rules' scheduled sunset on March 31, 2003, will occur automatically and without any further action on the Department's part, so no reversal of policy would be involved.

[18/] Response of the Air Carrier Association of America to the Department of Transportation Extension of the Comment Period, December 20, 2002 ("ACAA Response"), at 2. In fact, this is the second "response" ACAA has filed since the Department issued its notice extending the comment period on December 2. *See* Response of the Air Carrier Association of America to Petition for Extension of Deadlines and For Extension of CRS Rules Sunset Date, December 4, 2002 ("ACAA Response of Dec. 4, 2002"). ACAA's December 4 filing purported to be a response to the petition of Sabre *et al.* for extension of the NPRM comment deadlines and sunset date, but was effectively rendered moot by the Department's December 2 ruling.

the broader, ongoing review of those rules, or at least suspend the effectiveness of that section pending finalization of the rulemaking proceeding. ACAA's proposed amendment would prohibit carriers from purchasing "any data showing sale of tickets" on another carrier through a CRS system unless that other carrier specifically agrees to the sale of such data. ACAA Response, at 2.

In the NPRM, the Department has proposed even more draconian restrictions on carriers' access to MIDT data than those called for by ACAA. The NPRM, if finalized, not only would preclude carrier access to data unless specifically authorized by the carrier involved, but also prohibit carriers from purchasing data identifying sales by individual travel agents.[19/] The Department states that although "airlines can and often do use the [MIDT] data for legitimate purposes," the proposed restrictions are necessary "[t]o protect competition from the possible misuse of the data tapes by dominant airlines."[20/]

The Department offers no specific, substantiated evidence of such "misuse" to justify its proposed restrictions on carrier access to MIDT data; it merely expresses

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[19/] NPRM, at 69404. Although the Department proposed specific amendments to the current rules to incorporate those two changes, it revealed its uncertainty about what, if any, action to take by soliciting comment on ideas for alternative changes. Those include requiring a delay in the release of MIDT data to carriers and prohibiting carrier access to data identifying individual passengers and corporate purchasers. *Id.*

[20/] *Id.* at 69402-03 (emphasis added). The Department's professed concern about the potential misuse of MIDT data is somewhat ironic because the Department itself compiles and issues similar data as part of its Origin-Destination Survey of Airline Passenger Traffic. The MIDT data generated by the CRS systems is akin to a "next generation" version of the O&D Survey, the principal additional value of which is its completeness, timeliness, and flexibility for analytical purposes.

concern that some carriers might misuse the data for anticompetitive purposes and cites generalized complaints and unsubstantiated allegations[21/] by parties with an interest in restricting access to such information.[22/] (To United's knowledge, no carrier has ever filed an enforcement complaint alleging the anticompetitive misuse of MIDT data.)

Instead of credible evidence of abuse, ACAA attempts to demonstrate the need for immediate government restrictions on carriers' access to MIDT data by claiming that DOT and the Department of Justice have already found that the availability of such data is anti-competitive. However, even a cursory review of the documents ACAA relies upon shows that its claims are contrived, and the language it quotes from those

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21/ The Department implicitly concedes that it lacks specific evidence of misuse when it explains that it is proposing to restrict carrier access to MIDT data in the domestic market, but not in international markets, because "the only airlines that have complained that the availability of marketing and booking data has led to abuses are the smaller U.S. airlines." NPRM, at 69404 (emphasis added).

22/ Before acting to impede or prohibit carrier access to MIDT data, the Department should weigh carefully the credibility of the largely *ipse dixit* "evidence" of the proponents of such new regulation and, in doing so, take full account of the parochial nature of those parties' respective interests in the matter. Apart from what appears to be an almost paranoid concern by a handful of small airlines that major network carriers misuse MIDT to compete unfairly with them -- a claim supported more by rhetoric than any specific example of such unfair competition -- the principal proponents of such restrictions are corporate interests, which candidly acknowledge the true nature of their interest in restricting carrier access to MIDT data. *Id.* at 69402. ("[t]he National Business Travel Association contends that the [current] rule reduces a customer's bargaining leverage" with the airlines). Finally, travel agent interests support a total prohibition on carrier access to MIDT data because "airlines use it for implementing their override commission programs" (*id.*) -- an assertion that, in light of the Department's finding of no evidence that override commissions are anticompetitive (*id.* at 69404), is of no probative value whatever, but apparently suggests that some travel agents believe that they will be able to extract more commission revenue from carriers which have less information about travel agents' performance.

documents inapposite to the issue of whether DOT should restrict access to MIDT data without the benefit of full notice and comment rulemaking procedures, as ACAA urges.[23/]

ACAA claims, for example, that the Department "has acknowledged the anti-competitive use of" MIDT data. ACAA Response at 3, quoting "*Findings and Conclusions on the Economic, Policy and Legal Issues,*" January 17, 2001 (Enforcement Policy Regarding Unfair Exclusionary Conduct in the Air Transportation Industry (Docket OST-98-3713)), at 19-20. That policy document, however, contains no such "acknowledgement" and, in fact, does not even address the issue. The document does, however, contain an account of how CRS systems have facilitated carriers' development of yield management systems by, among other things, providing carriers and travel agents with up-to-date information on competing carriers' fare changes. That information, however, is available to any user of a CRS system (including carriers and travel agents, as participants and subscribers, respectively) on a real-time basis. Carriers do not need to

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[23/] In reviewing ACAA's pleading, the Department should not lose sight of the contradictory nature of the claims of the various proponents of new restrictions on carrier access to MIDT data. For example, the National Business Travel Association ("NBTA") complains that carriers use MIDT data to impose higher fares on corporate travel purchasers (NPRM, at 69403), whereas ACAA and certain travel agent interests object that larger carriers use the data to impose lower, predatory fares. *See* ACAA Response of Dec. 4, 2002, at 4-5 and NPRM, at 69403 (quoting comments of American Express); NPRM, at 69404 (citing comments of NBTA and ASTA that carrier misuse of data could result in travel agents booking passengers at higher fares). The mutually contradictory nature of these claims underscores the need for the Department not to adopt any new regulations without specific, credible, empirical supporting evidence.

purchase MIDT data to obtain that information; indeed, MIDT data do not include the actual fare charged, only the fare category in which a booking was made.

ACAA also asserts that "[t]he Department of Justice has commented on the need to address the anti-competitive use of CRS data." ACAA Response at 3, quoting Public Comments of the Department of Justice, December 17, 2001, at 28-29 (*U.S.-U.K. Alliance Case,* Docket OST-01-11029). In those comments, however, the Department of Justice was attempting to rebut the claim of American Airlines and British Airways that their proposed alliance "cannot possibly facilitate coordinated interaction." DOJ Comments, at 26. The Department of Justice did not suggest that carrier access to MIDT data is anticompetitive *per se*; nor did it suggest the need for further government regulation of the distribution of such data.

ACAA further suggests that "incumbent carriers" are able to use MIDT data to pressure travel agents and smaller carriers with which they compete. ACAA Response of December 4, 2002 at 6 ("[b]y enabling a large carrier to oversee the details of travel agency and corporate business transactions and to monitor those utilizing a new entrant's service, the Department provides large carriers with even more data to eliminate lower fares and, ultimately competition"). Such inflated rhetoric ignores the fact that the scope of MIDT data is limited. As the Department observed, "[e]ach system's data show how many bookings are made by each travel agency using that system on each airline in individual markets, the fare basis used for each booking, and the flight booked by each passenger;" the data tapes, however, do not reveal the fare paid, the identity of the passenger, or whether the booking is made by a business traveler. NPRM, at 69402.

These limitations suggest that carrier access to MIDT data alone cannot enable the types of anticompetitive behavior alleged by ACAA.

Although there is no specific evidence that carriers misuse MIDT data, there appears to be no dispute that both large and small carriers routinely put such data to legitimate, productive and pro-competitive uses and have invested substantial sums for that purpose. NPRM, at 69402-03. MIDT data, by providing more precise information about consumer preferences, enable carriers to improve their planning and resource allocation strategies to better price and tailor their services to meet the needs and demands of a highly competitive marketplace. *Id.* at 69402 (the data "enables airlines to learn where they need to offer more attractive fares and services"). Carriers also productively use the data to improve the efficiency of their business relationships with travel agents. Carriers need precise and timely information to develop, and regularly review, compensation arrangements that maximize travel agents' incentive to sell their services. This is not an invidious or anticompetitive practice; on the contrary, it is pro-competitive because it enables carriers to identify and reward the most productive travel agents and intensifies competition among carriers for the custom of travel agents and their passengers.[24/]

[24/] The Department suggests that "the airlines' elimination of base commissions . . . will make travel agents more dependent on incentive commissions," (NPRM, at 69404) "since the agencies' only compensation from those airlines will take the form of incentive commissions." *Id.* at 69403. If anything, the elimination of base commissions increases the need for more and better information about travel agents' performance and customer preferences to enable carriers to structure travel agents' incentives to maximize sales and properly reward productivity. Airlines, their passengers, and even travel agents

It is a fundamental axiom of economics that markets function more efficiently when participants have access to more and better information about supply and demand. Yet ACAA's (and the Department's) proposals involve specific government intervention in the marketplace to restrict carrier access to such information. Such an intrusive new form of regulation contravenes and undermines the general thrust of the NPRM, which, recognizing that government should limit its interference with market forces and the fact that the current rules have hamstrung competition for too long, is deregulatory in nature.

In sum, ACAA's request for immediate action to restrict carrier access to MIDT data, which disregards the procedures established by the Department in the NPRM (and the subsequent notice extending the comment deadlines issued December 2, 2002), is unfounded and premature. ACAA insists the Department needs no evidence to support granting its request. The Department, however, evidently disagrees because it has recognized the important role of interested parties' comments on the NPRM in enhancing the record and informing the Department's final decision:

> To decide whether restrictions on the availability of the marketing and booking data should be adopted, we request additional information on the costs and benefits of each of the possible alternatives. We ask the parties to provide more detailed information on, among other things, the ways in which the airlines that buy the systems' data tapes are now using the data and the availability of comparable information from other sources.

NPRM, at 69404.

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themselves would not be well served if carriers were required by regulation to make decisions about travel agent incentives based on inferior and incomplete information.

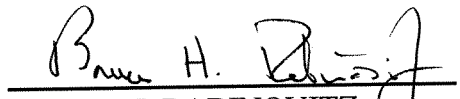
Although United opposes ACAA's request for the immediate imposition of restrictions on carrier access to MIDT data and ACAA's proposal to amend section 255.10(a), United supports the automatic elimination of that section, along with the rest of the current CRS rules, which are due to sunset on March 31, 2003. As noted above, neither ACAA nor any other party has provided credible or substantiated evidence of carrier misuse of MIDT data. If the Department receives any such evidence, it has authority to take enforcement action under section 411 to curb and punish anticompetitive conduct by air carriers and ticket agents, including the misuse of MIDT data. That authority exists today and will not be affected by the elimination of the CRS rules on March 31, 2003. In short, the Department does not need to amend, extend or suspend the effectiveness of section 255.10(a) or any other part of the CRS rules to fulfill its statutory obligation to prohibit unfair and deceptive competitive practices and unfair methods of competition.

III. Conclusion

Although the Sabre and ACAA filings address different issues, both seek to disrupt the progress of this proceeding at a time when, following the submission of written comments, the Department shortly will be in a position to move forward with preparing a final rule for publication. Sabre's petition is a relatively crude delaying tactic dressed up as an elaborate, but often irrelevant, discourse on administrative law. It has been filed by a CRS vendor which, faced with the potential elimination of rules that have insulated it from competition, is intent on clinging to the status quo for as long as possible. ACAA, meanwhile, with myopic focus, continues to demand immediate

Departmental action on one particular CRS-related issue, even though ACAA has provided no basis for the Department to grant its request, and the Department has made clear that "it would be more efficient for us to consider all issues in this proceeding rather than decide issues piecemeal." NPRM, at 69369. The Department should deny Sabre's petition for a hearing, reject ACAA's request for immediate action on the MIDT data issue, and instead adhere to its established procedural schedule and complete this proceeding as soon as possible. United continues to believe that the final outcome of this proceeding should be the elimination of the CRS rules altogether. In the meantime, the Department should allow the current rules to sunset as scheduled on March 31, 2003, particularly if a final rule cannot be issued within a short and clearly-defined timeframe.

Respectfully submitted,



BRUCE H. RABINOVITZ
NEIL J. KING
DAVID HEFFERNAN
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6960 (phone)

Counsel for
UNITED AIR LINES, INC.

Dated: January 13, 2003
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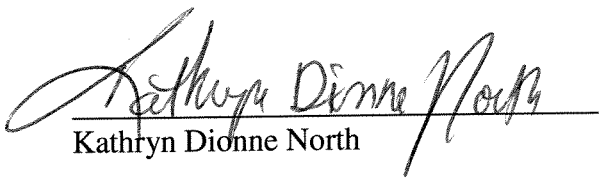
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Response of United Air Lines, Inc. on all persons named on the attached Service List by causing a copy to be sent via first-class mail, postage pre-paid.



Kathryn Dionne North

DATED: January 13, 2003

David H. Coburn
Carol R. Gosain
Steptoe & Johnson, LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

R. Bruce Keiner, Jr.
Crowell & Moring, LLP
1001 Pennsylvania Avenue, N.W.
Suite 1100
Washington, D.C. 20004-2595

Carolyn F. Corwin
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

Robert E. Cohn
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037

Edward P. Faberman
Michelle M. Faust
Air Carrier Association of America
1500 K Street, N.W.
Suite 250
Washington, D.C. 20005-1714

Jon F. Ash
Charles R. Chambers
Global Aviation Associates, Ltd.
1800 K Street, N.W.
Suite 1104
Washington, D.C. 20006

Arthur J. Molins
General Counsel North America
Lufthansa German Airlines
1640 Hempstead Turnpike
East Meadows, N.Y. 11554

Charles Donley, II
Marshall S. Sinick
James V. Dick
Squire, Sanders & Dempsey
1202 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Robert P. Silverberg
Michael Goldman
Silverberg, Goldman & Bikoff
1101 30th Street, N.W.
Suite 120
Washington, D.C. 20007

Marianne McInerney
Eugene Laney
National Business Travel Association
110 North Royal Street
4th Floor
Alexandria, VA 22314

Gary Doernhoefer
General Counsel
ORBITZ, LLC
200 S. Wacker Drive
Chicago, IL 60606

Joel Stephen Burton
Donald T. Bliss
O'Melveny & Myers, LLP
555 Thirteenth Street, N.W.
Suite 500 West
Washington, D.C. 20004-1109

Roger W. Fones
Antitrust Division
U.S. Department of Justice
325 Seventh Street, N.W.
Washington, D.C. 20530

Mark S. Britton
Senior Vice President
and General Counsel
Expedia, Inc.
13810 SE Eastgate Way
Suite 400
Bellevue, WA 98005

Paul M. Ruden
Senior Vice President
Legal & Industry Affairs
American Society of Travel Agen
1101 King Street
Alexandria, VA 22314

Carl B. Nelson, Jr.
Associate General Counsel
American Airlines, Inc.
1101 17th Street, N.W.
Suite 1600
Washington, D.C. 20036

Kenneth P. Quinn
John E. Gillick
Pillsbury Winthrop, LLP
1133 Connecticut Ave., N.W.
Suite 1200
Washington, D.C. 20036

Donald A. Kaplan
Brian McCalmon
Preston Gates Ellis & Rouvelas M
LLP
1725 New York Avenue, N.W.
Washington, D.C. 20006

Don H. Hainbach
Boros & Garofalo, P.C.
1201 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

William H. Callaway
Frank J. Costello
Charles J. Simpson
Zuckert, Scoutt & Rasenberger, LLP
888 17th Street, N.W.
Suite 600
Washington, D.C. 20006

Megan Rae Rosia
Associate General Counsel
Northwest Airlines, Inc.
901 15th Street, N.W.
Suite 310
Washington, D.C. 20005

William C. Evans
Verner, Liipfert, Bernhard, McPherson and Hand
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005

Bruce E. Cunningham
Bauer & Cunningham, Inc.
Two Moonvine
The Woodlands, TX 77380

Jonathan B. Hill
Dow, Lohnes & Albertson, PLL
1200 New Hampshire Avenue, I
Suite 800
Washington, D.C. 20036-6802

Douglas L. Abramson
Vice President, General Counsel & Secretary
Worldspan, L.L.P.
300 Galleria Parkway
Atlanta, GA 30339

Paul C. Jasinski
General Counsel, USA
British Airways PLC
75-20 Astoria Blvd.
Jackson Heights, NY 11370

John Risberg
1395 N. Highway Drive
Fenton, St. Louis, MO 63099
Attorney for Maritz TQ3

Joanne W. Young
David M. Kirstein
American West Airlines, Inc.
Baker & Hostetler, LLP
Washington Square, #1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

Robert W. Kneisley
Associate General Counsel
Southwest Airlines, Inc.
1250 Eye Street, N.W.
Suite 1110
Washington, D.C. 20005

Andrew B. Steinberg
Executive Vice-President
Administration, General Counse
Corporate Secretary
Travelocity.com
15100 Trinity Boulevard
Ft. Worth, TX 76155

Sarah Wynn
American Express Travel Related Services Company, Inc.
200 Vesey Street
New York, N.Y. 10285-4909

John K. Hawks, President
Association of Retail Travel Agents
2692 Richmond Road, Suite 202
Lexington, KY 40509-1604

Bruce Bishins
President and CEO
United States Travel Agent Reg
511 Avenue of the Americas
New York, N.Y. 10011-8436

Samuel H. Wright
Cendant Corporation
101 Constitution Avenue, N.W.
Suite 800
Washington, D.C. 20001
For: Galileo International, LLC and Rosenbluth International

Linda F. Golodner
President
National Consumers League
1701 K Street, N.W.
Suite 1200
Washington, D.C. 20006

Eugene Laney, Jr.
Director of Information & Legi
Services
National Business Travel Asso
110 North Royal Street, 4th Flo
Alexandria, VA 22314

Don Saunders, Esq.
800 N.W. Loop 410
San Antonio, TX 78216
Attorney for Corporate Travel Planners

Brian Hand
Nordlicht & Hand
645 5th Avenue
New York, NY 10022
Attorney for Sea Gate Travel Group, LLC

Eugene A. Over, Jr.
General Counsel
Navigant International, Inc.
84 Inverness Circle East
Englewood, CO 80112
Attorney for Navigant Internatic

Robert Blakeney
4300 Sigma Road
Suite 100
Dallas, TX 75244
Attorney for Colwick Travel

David Warmflash
Sexter & Warmflash
115 Broadway
New York, NY 10006
Attorney for Tzell Travel

Fred DeCicco
Pollack, Pollack, Isaac & DeCic
225 Broadway
New York, NY 10007
Attorney for Protravel Internatic

Roy Hadley
World Travel BTI
1055 Lenox Park Boulevard
Suite 420
Atlanta, GA 30319

Rosemarie Christofolo
1630 S. Stapley Drive
Suite 217
Mesa, AZ 85204
Attorney for Alteus International

Michael Goodman
Wolf & Goodman
1350 S. Glencoe Street
Denver, CO 80222
Attorney for Compass Travel, L

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